

United States District Court

for the
Western District of New York



United States of America

v.

Case No. 20-mj- 5284
(Sealed)

DAVID LETTIERI

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

(1) From in or about October 4, 2020 until in or about October 12, 2020, in the Western District of New York, and elsewhere, the defendant, DAVID LETTIERI, using facilities and means of interstate and foreign commerce, that is, a cellular telephone and the internet, did knowingly persuade, induce, entice, and coerce, and attempt to persuade, induce, entice, and coerce, and individual who had not attained the age of 18 years, that is, Victim 1, a person known to the Grand Jury, to engage in sexual activity for which any person can be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b); and

(2) Between on or about October 12, 2020, in the Western District of New York and elsewhere, the defendant, DAVID LETTIERI, did knowingly travel in interstate commerce with a motivating purpose of engaging in illicit sexual conduct with another person, in violation of Title 18, United States Code, Section 2423(b).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

RANDY GARVER
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION

Printed name and title

Sworn to before me and signed telephonically.

Date: October 30, 2020

Judge's signature

City and State: Buffalo, New York

HONORABLE MICHAEL J. ROEMER
UNITED STATES MAGISTRATE JUDGE

Printed name and title

**AFFIDAVIT IN SUPPORT OF A
CRIMINAL COMPLAINT**

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

I. INTRODUCTION

I, RANDALL E. GARVER, after being duly sworn, depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation and entered on duty in May 2006. I am currently assigned to the Buffalo Field Office and work on cases associated with the Violent Crimes Against Children program, which targets individuals involved in the online sexual exploitation of children. As part of these duties, I have become involved in the investigation of suspected violations of Title 18, United States Code, Sections 2251, 2252, 2252A, 2422, 2423, and 2261. I have also participated in various FBI mandated and volunteer training for the investigation and enforcement of federal child sexual abuse material (CSAM), Sexual Enticement, Travel to Engage in Illicit Sexual Conduct, and Cyberstalking laws in which computers or smartphones/devices are used for engaging in such violations of Federal law.

2. This affidavit is further made in support of a criminal complaint charging **DAVID LETTIERI**, date of birth XX/XX/1987, with a violations of Title 18, United States Code, Sections 2422(b) [Enticement of a Minor] and 2423(b) [Travel to Engage in Illicit Sexual Conduct].

3. The statements contained in this affidavit are based upon my investigation, information provided by other law enforcement officers, other personnel specially trained in the seizure and analysis of computers and electronic media, and on my experience and training. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that violations of Title 18, United States Code, Sections 2422(b) [Enticement of a Minor] and 2423(b) [Travel to Engage in Illicit Sexual Conduct] occurred and that **LETTIERI** violated the same statutes.

II. PROBABLE CAUSE

4. The investigation to date has shown that there is probable cause to believe that **DAVID LETTIERI** used his Facebook account **david.c.lettieri** to engage in a sexual conversation with a 13 year old girl (hereinafter, "Victim") regarding his traveling from his home in the Norther District of New York to Western New York to have sexual intercourse with her. On October 12, 2020, **LETTIERI** traveled from his home in Harpursville, New York, to meet Victim in Bliss, New York and engage in sexual contact. The investigation believes the sexual contact did not occur.

5. On or about October 15, 2020, a Wyoming County Sheriff's Office (WCSO) Investigator interviewed this case's Complainant who reported that his 13-year-old daughter (Victim) met **LETTIERI**, a 33-year-old man from Harpursville, New York, for sexual intercourse, though the act did not consummate. Complainant reported that on October 13,

2020, he learned from family members that on October 12, 2020, an adult came to a park near his home in Bliss, New York, to meet Victim for the purpose of having sexual contact. Complainant took Victim's cell phone from her and provided it to the Investigator along with consent for law enforcement to search the device. Complainant advised he would cooperate with Victim being forensically interviewed at a Child Advocacy Center (CAC) later.

6. The same report continued:

"A suspect was developed using the Facebook account name of David Carnine (sic) Lettieri [**david.c.lettieri**]. [The Investigator] believes the suspect is DAVID C. **LETTIERI** 6/3/19XX of Harpursville, NY for the following reasons. A DMV photo request shows David LETTIERI license photo to be the same individual as pictures on the Facebook account. Also, David LETTIERI has a grey 2003 Saturn 200 bearing New York registration HUI5398 registered in his name. This matches the vehicle description that the suspect was driving. The suspect was believed to have traveled from 2 and ½ hours away, and David's address is a little less than 3 hours away according to Google maps.

"[The Investigator] searched through [Victim's] cell phone. She had blocked that Facebook account [**david.c.lettieri**], and also the phone number (631) 942-2356. [The Investigator] did a reverse phone look up on TLO of the number, and it comes back to DAVID **LETTIERI**. The number is serviced by Verizon Wireless. [The Investigator] did not observe [any] messages between [Victim] and DAVID [**LETTIERI**] on the phone, but it was reported by family that [Victim] deleted messages and blocked the number. [The Investigator] did observe call history with the number on her phone, and the call history included 10/12/2020 which was the day of the offense. There [were] also photos of [Victim] and the suspect's face on the phone from 10/9/2020. There was also a screen shot of the Bliss Speedway Address which is near [Victim's] house."

7. On or about October 14, 2020, Victim's 17-year-old sister (hereinafter "Witness 1") provided a supporting deposition to WCSO. In the deposition, Witness 1 advised that on the afternoon of October 12, 2020, Victim told Witness 1 she was going to meet a guy at the park. Witness 1 viewed the Facebook profile of the man Victim was to meet and believe him to be an adult. Victim told Witness 1 that the man knew Victim was 13 years old and was

coming from two and a half hours away. Witness 1 advised she contacted her boyfriend (hereinafter "Witness 2") to come help her prevent Victim from meeting the man. Witness 1 advised she and Witness 2 went to the park before Victim and waited for the man. At some point, Witness 1 contacted Victim and told her to hurry to the park so Victim would be present when the man arrived. The deposition stated, "while waiting, the guy pulled in in a goldish silver four door car. The guy got out and started walking toward us. We all got out of the truck [in which they waited] and Witness 2 confronted the guy and told him to leave and never come back. The guy told Witness 2 he was 20."

8. On or about October 22, 2020, Victim submitted to a forensic interview at the CAC in Warsaw, New York. During the interview, Victim told the interviewer she is currently in 8th grade. Victim stated she made initial contact with **LETTIERI** having met him through Witness 1, who previously communicated with him. Victim said she communicated online with **LETTIERI** for about three or four weeks before he came to Bliss to meet her. Victim said she communicated with **LETTIERI** over Facebook Messenger (**david.c.lettieri**) and text messaging (631-942-2356). Victim advised that she told **LETTIERI** that she was 13 years old and he never communicated his age. The two also engaged in video chats over FaceTime. Victim recalled that **LETTIERI** was a white male who appeared to be in his 30s, had dark hair and glasses and had pet snakes and rats. Victim told **LETTIERI** that she wanted to have a baby and **LETTIERI** told her he could help her get pregnant. During their conversations, **LETTIERI** asked Victim for pictures of her naked breasts and she sent two such images. Victim could not recall if **LETTIERI** ever asked for naked pictures of her vagina but was confident that he never sent any nude images to her. The two agreed to meet at a

park in Bliss on October 12, 2020. That morning, Victim told Witness 1 she was going to meet **LETTIERI** later that day. Victim said Witness 1 and Witness 2 rode in Witness 2's pick-up truck to the park and waited for **LETTIERI** to arrive. Initially, Victim was not going to go to the park but Witness 1 contacted Victim and told her to walk to the park. When Victim arrived, she sat in the pick-up truck with both Witnesses for about 30 minutes until **LETTIERI** arrived. When **LETTIERI** arrived, Witness 1 and Witness 2 confronted him and Witness 2 asked **LETTIERI**'s age. Victim recalled that **LETTIERI** said he was in his 30s before he left. He later sent a text message to Victim calling her a liar. Victim said she believed the purpose of the meeting was to have sexual intercourse to get her pregnant.

9. On October 22, 2020, I reviewed a photograph of **LETTIERI** and records obtained from the New York State Department of Motor Vehicles (DMV). The records indicated that **LETTIERI** has a gray 2003 Saturn sedan registered to him, as WCSO noted above. I reviewed the four 10/09/2020 screenshots discussed in the police report that showed both Victim and **LETTIERI** on the same images. I submit that the individual pictured in those screen shots stored on Victim's phone is **LETTIERI**. I also reviewed the 10/09/2020 screen shot of Bliss Speedway, located at 3626 East Main Street, Bliss, New York. My search in Google Maps indicated that the location is .3 miles from Victim's home.

10. Using information detailed above, on October 26, 2020, US Magistrate Judge Michael J. Roemer signed warrants authorizing the search of Facebook account **david.c.lettieri** and the Verizon account associated with (631) 942-2356. To date, Verizon has not offered their return to the FBI. However, on October 27, 2020, I received an email

from Facebook advising me that the return was prepared and ready for download. On October 28, 2020, I downloaded the search warrant return and found three conversations related to Witness 1, Victim, and **LETTIERI**. I will summarize the three conversations separately below for simplicity since the times chronologically overlap in places.

Facebook Conversation with Witness 1 and LETTIERI

11. On or about October 5, 2020, Witness 1 and **LETTIERI** communicated in a Facebook Messenger conversation regarding meeting for a sexual encounter. I annotate for the Court, there was no discussion of age at this point in the conversation. During the conversation, on 10/05/2020 at 00:35 UTC (which is 8:35 pm on 10/04/2020) **LETTIERI** wrote, "I'll get a room so don't worry"; **LETTIERI** then advised he attends car shows as a vendor. Witness 1 wrote that she has a boyfriend and **LETTIERI** replied "so now you change your [mind] sigh which I'm guessing you didn't plan on meeting". Witness 1 replied that she did want to meet with **LETTIERI** (for sex) because her boyfriend does not want a child right now. **LETTIERI** wrote that he would never push Witness 1 to do anything or disrespect her; he replied, "and if you have a kid with me I will spoil and take care of you so something to think on." **LETTIERI** wrote that "just being honest also Thursday might be the day I'll be in the area/you ok dressing a little slutty or you don't like to dress that way"? Witness 1 replied that it would depend on the weather that day (Thursday, October 8). **LETTIERI** wrote that he would like to see Witness 1 in a short skirt before asking when Witness 1's period was: "btw (by the way) when's your time of month". Witness 1 replied she had her period a week ago and **LETTIERI** wrote "you'll be prime this week then so that's good". **LETTIERI** continued and wrote, "thinking if I should bring [movies] to watch [too] unless

you just want to suck my cock and just focus on sex/so you won't have problems with blowjobs". The conversation ended with Witness 1 advising she "kinda" had a problem with oral sex. The conversation detailed in this paragraph ended at 01:31 UTC (9:31 pm local time on 10/04/2020) without a discussion of age.

Facebook Conversation with Victim, Witness 1, and LETTIERI

12. On or about October 5, 2020, Witness 1 created a Facebook Messenger group chat involving the three annotated individuals. On 10/05/2020 at 12:51 UTC (10:51 am local time) Witness 1 wrote, "so my sister wants sum 2" to which LETTIERI replied, "you both ok with threesome when you both pregnant then/seeing each other naked is all I asked." As the conversation continued, Victim provided her phone number to LETTIERI and asked if she could double date with LETTIERI and Witness 1. LETTIERI suggested they could all go to a car show together that he attends near Buffalo. Victim related concerns about Complainant, "well yeah but dad" to which LETTIERI replied, "has to be ok with is the idea." Witness 1 wrote, "Yea ik [I know] but when I go with my friend my dad doesn't really like it," and Victim wrote, "that's why I got with her." Victim then wrote in the group chat, "how old are you hun," directed at LETTIERI. Witness 1 wrote, "17 gonna be 18 next month hbu [how about you]", again directed at LETTIERI. On 10/05/2020 at 13:36 UTC (9:36 am local time), Victim wrote "almost 14". I note the time because from this point forward, LETTIERI knew he was communicating with a 13-year-old girl. LETTIERI replied, "Lol flr [female led relationship] girls that wants kids asking ages is now what???" Victim wrote back, "I want a kiddd/as much as you want do us three have to have sex when we pregnant". The group conversation ended with LETTIERI writing that he planned to

visit on Thursday (October 8).

Facebook Conversation with Victim and LETTIERI

13. On October 5, 2020 at 20:30 UTC (4:30 pm local time; about seven hours after informing LETTIERI knew Victim was 13), Witness 1 wrote LETTIERI “Hi” and sent a picture of herself holding a baby and asked what a third individual wrote to LETTIERI. LETTIERI sent back a screenshot where the individual threatened LETTIERI for having an inappropriate conversation with Witness 1. Victim wrote, “I’m just telling you RN [right now] I have a bf and I already talked to him about it ok”. LETTIERI replied, “seems like you guys are changing you[r] mind which [is] better to just tell me if you do”. Victim wrote back, “I’m not”; LETTIERI asked “what about your sister”? Victim replied, “she did change her mind”. LETTIERI wrote, “so she doesn’t want to meet which is all she would need [to] tell me is all” and Victim again stated that her sister, Witness 1, did not want to meet LETTIERI. The next chat log entry stated, “[Victim] missed your video chat”; she replied, “Sorry you called when dad was right there”. LETTIERI then wrote, “here a question what would make both you and your sister happy” and Victim replied, “I want a kid but idk [I don’t know] about [Witness 1 true first name].” LETTIERI replied, “well I was looking forward to Thursday but that’s now [shot]/think alcohol should be bribed lol/she said she wants jack Daniels [right]?” I note that since the FBI did not obtain the contents of video or voice chats, or other potential text conversations, I cannot interpret the context of each statement.

14. On October 7, 2020, at 00:29 UTC, Victim and LETTIERI engaged in a video

chat session over Facebook, the contents of which the FBI did not recover. On October 7, 2020, at 02:18 UTC, Victim wrote **LETTIERI** "hey instead of us going out can we just meet at the park here so my dad doesn't bitch." **LETTIERI** replied, "I thought you don't like the cold," and Victim responded, "that's why you have a car." **LETTIERI** advised, "I was planning a hotel room so we could take a shower together [too]." Victim asked **LETTIERI** if he would be willing to purchase her a data service card for her phone, which **LETTIERI** agreed to after he sees Victim in person and knows she will not change her mind (like Witness 1 did). Victim replied, "I promise you I'm not gonna change my mind" and **LETTIERI** wrote, "yeah if I came tomorrow I most likely have done it for both of you but because of the BS two week wait", referring to impregnating both girls. Victim replied, "lol sorry me and my sister don't have the same period schedule". As the conversation continued, **LETTIERI** asked, "you ok with a hotel room because fucking in a car isn't fun", and Victim replied, "not really I'd rather not leave town". The two then discussed the fact that there is not a hotel in Victim's town and **LETTIERI** again mentioned bringing Jack Daniels whiskey to entice Witness 1 into sex, "just thinking of how to bribe her so I could see you both tomorrow". Victim advised, "lol she won't get bribed but you can come out to hang with me tomorrow and then we can do it when you come back", meaning come to Victim's town the next day to visit and have sex on a follow on trip. **LETTIERI** wrote back, "[that] wouldn't be fair to me since I want booty". **LETTIERI** offered to bring Victim whiskey when he comes to meet her "if you be cute"; Victim asked, "so I can't wear my jeans and a cut off". **LETTIERI** replied, "Lol I mean till then since I want to see tits still", to which Victim replied by sending a picture of herself holding her sweatshirt up, exposing her bra. **LETTIERI** responded, "but let's say no bra or [panties] so fucking is [easier]". Victim replied, "lol sports bra and thong".

LETTIERI then wrote, “why I just drop your pants if it’s nothing and start riding and why not expose them both not one lol.” Victim then wrote, “bc I’m laying down and it’s hard to/how big is your dick”? **LETTIERI** replied, “does it matter if [you’re] getting knocked up”? Victim and **LETTIERI** then discussed birth control pills, having sex more often than just the one day they meet, and **LETTIERI** asked to see Victim’s breasts. Later, he again asked, “...im itchy to see those tits sigh” and Victim sent a picture of herself holding a phone in a mirror wearing her bra. **LETTIERI** replied, “I want them out sigh” and she then sent a similar picture with the bra off, exposing a breast. **LETTIERI** wrote back, “I want fuck next week for sure”. Victim then mentioned that Complainant threatened to take her phone away because her science grade was low.

15. On October 8, 2020, the conversation continued with Victim stating, “so are we doing it next week or the week after”? and **LETTIERI** replied, “Let’s see what I have plans next week if I can’t come out for a visit.” Victim then asked **LETTIERI** to bring a few pregnancy test kits with him when he arrives. **LETTIERI** wrote, “so you know if you don’t want to do a hotel room we going to have sex in the park not car” and Victim wrote, “yeah just bring a blanket” to lay on. **LETTIERI** responded, “why we can have sex standing up or you love to be doggyed/also can you have a bush the shaving it”.

16. On October 9, 2020, Victim continued, writing “hey if dad works Monday can you come out Monday”; when **LETTIERI** wrote that he had plans, Victim stated, “can you please try to come Monday/I’m out [of] school that day”. **LETTIERI** replied, “well if I cam up you can’t wear layers [because] I want to [be] able to grab your tits/and no bra or panties”.

Victim agreed and wrote, “you coming Monday?” to which **LETTIERI** replied, “Yeah I’ll come.” The two agreed to about noon at the Bliss Park; when **LETTIERI** did not know where that was, Victim sent a screen shot of the “Bliss International Speedway” Google search results that displayed 3526 East Main Street, Bliss, New York 14024 and showed the location was .4 miles from Victim’s then-location. Victim wrote, “instead of turning into there your going to turn in to the drive way on the other side of the road/it’s a [paved road].” **LETTIERI** then wrote, “I say show me both tits today is all”. The two then discuss that Victim will moan when the two have intercourse.

17. On October 10, 2020, **LETTIERI** wrote Victim, “btw just checking Monday when I see you you wont mind me grabbing your tits for fun or wait a bit”? The following day, October 11, 2020, **LETTIERI** wrote “Yet I thought I be see tits when I woke up”, to which Victim replied by sending a picture of her bra pulled up and one breast exposed. **LETTIERI** thought the image was too blurry and Victim sent a similar image, though clearer. **LETTIERI** wrote, “going to be fun grabbing them for sure”. Victim asked, “...hey luv your coming out tomorrow right”? and **LETTIERI** replied, “yeah unless you dont want to be like a wet cat in rain”. **LETTIERI** then asked Victim to send a picture of both of her breasts, with which she complied. **LETTIERI** asked Victim to wear a light jacket, tank top, and no bra the following day when they meet. Victim replied, “tank top no bra sweats and yeah light jacket” and told **LETTIERI** it would take her less than five minutes to walk to the park. The two then confirmed that they will meet the next day (October 12, 2020) and a video chat took place, the contents of which the FBI did not recover.

18. On October 12, 2020 (at 02:20 UTC, which is about 10:20 pm on October 11, 2020), Victim replied to a **LETTIERI** question by informing him that she would wear underwear but no bra when she meets him the following afternoon. **LETTIERI** then informed Victim he expected a “morning pic so you get my mind still in the gutter”. The next morning, on October 12, 2020, Victim sent **LETTIERI** a picture of her breast. **LETTIERI** replied, “so ready to freeze your booty off lol/Gps says about two in half hours so you know”. When Victim asked “how far” **LETTIERI** replied with a screen shot of his phone screen that displayed the local time as 11:15, presumably am based on when the screenshot was sent, and showed the phone’s GPS/navigation function was in use. The screenshot showed the vehicle was one hour and 34 minutes from its destination. The image showed the vehicle was traveling west on Interstate 86 and was 36 miles from exiting to Interstate 390 north. I know this route to be consistent with travel from Harpursville, New York to Bliss, New York. About 39 minutes later, **LETTIERI** sent another screen shot of his phone’s navigation that showed the local time was then 11:54, that he was westbound on 56 miles and 1 hour and 4 minutes from destination. Soon thereafter, **LETTIERI** sent another navigation screenshot showing it was 12:23, he was traveling on Highway 436 and 38 minutes to destination (29 miles). **LETTIERI** wrote, “show me some tits if you want me to speed” to which Victim responded by sending a picture of her nude breast. On October 12, 2020 at 16:48 UTC (12:48 pm local time), **LETTIERI** wrote, “ten minutes away”. At 17:03 UTC (1:03 pm), the log showed **LETTIERI** made a call using Facebook (the contents of which were not recovered). At 17:05 UTC (1:05 pm), **LETTIERI** wrote Victim “thanks for the lying BS”.

III. CONCLUSION

19. Based upon the above information, I assert that probable cause exists to believe that DAVID LETTIERI knowingly violated Title 18, United States Code, Sections 2422(b) [Enticement of a Minor] and 2423(b) [Travel to Engage in Illicit Sexual Contact].

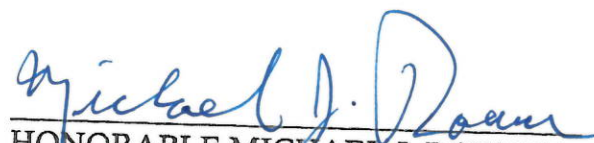
20. In consideration of the foregoing, I respectfully request that this Court approve the Criminal Complaint and Arrest Warrant for DAVID LETTIERI and that said Complaint and Arrest Warrant be sealed until further order of this Court and that all papers submitted in support of this Application, including the Application, Affidavit, and Arrest Warrant remain under seal until further order of this Court.



RANDALL E. GARVER
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed telephonically

this 30th day of October 2020.



HONORABLE MICHAEL J. ROEMER
United States Magistrate Judge